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Byland Revisited, or, Spectres of Inheritance

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ABSTRACT

This article explores the connections between ghosts and medieval law. It revisits the final story from the famous Byland Abbey collection, concerning the sister of Adam de London and a disputed inheritance, and demonstrates the historicity of the people involved using legal evidence. This opens up a reading of the story in which legal ideas are central to the framing and narrative; I suggest that the ghost manifests a fear of the destruction of inheritance. I then move to argue that the law of inheritance in later medieval England was dependent on a 'spectral reasoning', in which the wishes of those who granted property to their children took on an outsized, supernatural agency. Finally, I suggest that this comparison helps to reveal not only the strangeness of inheritance as a legal concept, but also the ways in which it has continued to structure inequality into our own time.

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> Alongside the modern evils, a whole series of inherited evils oppress us, arising from the passive survival of antiquated modes of production, with their inevitable train of social and political anachronisms. We suffer not only from the living, but from the dead. *Le mort saisit le vif*! Karl Marx, preface to the first edition of *Capital*.[1]

Marx saw dead people everywhere. As several critics have pointed out, his works are littered with allusions to vampires, ghosts and spectres.[2] This gothic imagery helped to dramatise the 'alien force' of capital, built up from the enormous dead labour of the past, and its other-worldly power over the living. On the lookout for such shadows as he burrowed away in the British Museum, his attention was piqued by a maxim from medieval French customary law, *le mort saisit le vif* – 'the dead grasp the living' – which he inserted into his prefatory remarks to *Capital*.[3] For the thirteenth-century

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[1] The following abbreviations are used in this article: BIA: York, Borthwick Institute for Archives; BL: London, British Library; TNA: Kew, The National Archives.

Karl Marx, *Capital: A Critique of Political Economy*, vol. 1, trans. Ben Fowkes (Harmondsorth: Penguin, 1976), 91. The line is characteristic of Marx's liberal quotation of classical and medieval sources; this preface ends with a modified quote from Dante's *Purgatorio*.

[2] Most famously, Jacques Derrida, *Specters of Marx: The State of the Debt, the Work of Mourning and the New International*, trans. Peggy Kamuf (London: Routledge, 1994).

[3] See Jacques Krynen, '"Le mort saisit le vif': genèse médiévale du principe d'instantanéité de la succession royale française', *Journal des Savants* 3 (1984): 187–221.

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legal copyists who first committed the phrase to parchment, it had explained the idea that inheritance happened without interruption; property was understood to pass from one generation to the next in a continuous motion. For Marx, it became a shorthand for the uncanny coexistence of older modes of production within and alongside industrial capitalism. Indeed, his use of such an ancient idiom illustrated a point he made elsewhere – the 'tradition of all dead generations weighs like a nightmare on the brains of the living.'[4]

Marx has been given short shrift by medieval historians of late.[5] But I would like to suggest that his remarks here, signalling the deathliness of inheritance, may actually be rather revealing of the very period from which he borrowed the phrase. *Le mort saisit le vif* makes plain in a few words a notion of inherited property found across medieval northern Europe in which ancestors and heirs were thought to be bound together through the same piece of land, from one generation to the next.[6] Such an idea, indeed, has been taken to mark a key staging post in the transition from a 'feudal' system of landholding dependent on a personal relationship between lord and tenant, to a law of property upheld by royal courts, that secured a tenant's rights to land on their own behalf. While historians have disagreed about the precise causes and chronology of this transition in Anglo-Norman and Angevin England, they have generally agreed that the consolidation of the right of inheritance was a key gauge (alongside the right of free alienation) of the strengthening of tenants' legal rights over their property.[7]

Yet this notion of inheritance as a straightforward corollary of property rights passes over some of its inherent oddity, its tangling of the living and the dead. In this article I suggest that this growing attachment to inheritance actually created a great deal of tension in later medieval conceptions of property. As the legal historian John Baker has put it, 'the law had to hold some kind of balance between the living, the dead, and the unborn.'[8] But in a world where the boundaries between those people were relatively porous, this balance was precarious. If we turn to one of the ghost stories from the famous early fifteenth-century Byland Abbey collection, we can see what might happen if it was disturbed: here, the grasp of the dead upon the living became rather too literal, as a revenant corpse came back to try to ensure that inheritance customs were followed.[9] The story reveals not only a critique of legal processes and their incapacity to resolve inheritance disputes, but also the deep strangeness of inheritance and the kinds of trouble that it could cause for conceptions of property.

In what follows, then, I hope to add to a small but incisive historiography that has pointed to the various contexts in which modern legal thinking, as it has attempted to

[4] Karl Marx, *Marx: Later Political Writings*, ed. and trans. Terrell Carver (Cambridge: Cambridge University Press, 2004), 32.
[5] John Hatcher, 'Lordship and Villeinage Before the Black Death: From Karl Marx to the Marxists and Back Again', in *Peasants and Lords in the Medieval English Economy: Essays in Honour of Bruce M.S. Campbell*, eds. Maryanne Kowaleski, John Langdon and Phillipp R. Schofield (Turnhout: Brepols, 2015), 113–46.
[6] These issues are summarised neatly in Martha Howell, *Commerce Before Capitalism in Europe, 1300–1600* (Cambridge: Cambridge University Press, 2009), 49–53.
[7] See J.C. Holt, 'Feudal Society and the Family in Early Medieval England: II. Notions of Patrimony', *Transactions of the Royal Historical Society*, 5th series, 33 (1983): 193–220; Robert C. Palmer, 'The Origins of Property in England', *Law and History Review* 3 (1985): 1–50; idem, 'The Economic and Cultural Impact of the Origins of Property: 1180–1220', *Law and History Review* 3 (1985): 375–96; Joshua C. Tate, 'Ownership and Possession in the Early Common Law', *American Journal of Legal History* 48 (2006): 280–313; and John Hudson, *The Oxford History of the Laws of England*, vol. 2: *871–1216* (Oxford: Oxford University Press, 2012), 333–75 (Chapter 14: The Land).
[8] J.H. Baker, *An Introduction to English Legal History*. 4th edn. (Oxford: Oxford University Press, 2002), 289.
[9] The story is recorded in BL, MS Royal A 15 XX, f. 163v.

flesh out ideas of personhood, has concomitantly depended on a spectral imaginary of unpersons and ghosts.[10] As well as showing just how far back the association between legality and spectrality might run, I would also like to reflect on the longer trajectories of this medieval mode of thinking, the 'train of social and political anachronisms' that property has accumulated within itself. The anthropologist Timothy Jenkins, writing of twentieth-century France, has suggested that property might be considered as having 'a life and force … that organises the life possibilities of all its members'.[11] It is quite clear, from medieval Byland and elsewhere, that property has long possessed such a force, a capacity to disrupt and rearrange relationships between the living and the dead. It certainly haunted Marx – it haunts us still.

Adam de London's sister

Sometime around the middle of the fourteenth century in north Yorkshire, 'according to the account given by old men' ('secundum relacionem antiquorum'), an unspecified argument arose between an unnamed woman and her husband.[12] In her anger, she took the charters for their house and lands in the villages of Ampleforth and Heslerton and gave them to her brother, Adam de London. Before her quarrel with her husband could be resolved, however, she died and was buried in the cemetery at Ampleforth. Adam, still holding the charters, promptly expelled his brother-in-law and nephews from the property, and took possession for himself. But then something curious happened: his dead sister got up from her grave. She was discovered by a local man named William Trower. Her ghost begged him to tell her brother to restore the charters to her husband and children, and give them back the land – otherwise she would never rest in peace.

When Adam was told what had happened, he was incredulous. But William was insistent, and he warned Adam that he would probably hear it himself from the ghost. So it was, when the revenant appeared to William again a few days later, he seized her (the living may also grasp the dead, it seems) and carried her straight to Adam's chamber so that they could speak in person. Yet even upon seeing his dead sister for himself and hearing her plea, Adam was unmoved, irate even, telling her that 'even if you walk the earth forever I will never give back the charters' ('si ambulaueris imperpetuum nolo predictas cartas redonare'). She groaned and responded that she would never have any rest. But she also threatened him: after his death, he would walk in her place. Her right hand was black, and drooped by her side; asked why, she said it was because often she had sworn false oaths. Yet in spite of these terrifying signs and threats, Adam remained obstinate, and still refused to give back the charters.

[10] See Colin Dayan, *The Law is a White Dog: How Legal Rituals Make and Unmake Persons* (Princeton, NJ: Princeton University Press, 2011); and Natasha Wheatley, 'Spectral Legal Personality in Interwar International Law: On New Ways of Not Being a State', *Law and History Review* 35 (2017): 753–87.

[11] Timothy Jenkins, *The Life of Property: House, Family and Inheritance in Béarn, South-West France* (New York, NY: Berghahn, 2010), 3.

[12] BL, MS Royal A 15 XX, f. 163v. Here and in what follows I have used a combination of my own transcription of the manuscript along with that of M.R. James, 'Twelve Medieval Ghost-Stories', *English Historical Review* 37 (1922): 413–22. I have made my own translations, but drawn significantly on A.J. Grant (assisted by A. Hamilton Thompson), 'Twelve Medieval Ghost Stories', *Yorkshire Archaeological Journal* 27 (1924): 363–79. There is a recent, easily accessible translation of the stories in Scott G. Bruce, ed., *The Penguin Book of the Undead: Fifteen Hundred Years of Supernatural Encounters* (New York, NY: Penguin Books, 2016), 204–15.

After all this, the conclusion to the story is rather unsatisfying. The revenant was made to leave the village, though it is not clear how. And the scribe who recorded the tale seems to lose confidence in it, asking the reader's pardon 'if it should happen that I have offended in writing what is not true' ('peto tamen veniam si forte offendi in scribendo contra veritatem'). The whole account ends with the brief remark that after Adam's death his son, Adam Jr., made partial satisfaction to the heirs, his cousins. What should we make of this? The implication seems to be that the disputed lands had been a marriage gift, settled upon the de London sister and her husband at the time of their wedding. After they fell out, she retaliated by giving the property back to her natal family, into the line of male descent occupied by her brother, to the disinheritance of her own sons – a point the scribe found particularly scandalous. The central drama of the story is whether her brother, Adam, would make this right. To the extent that things are resolved, it is through inheritance: Adam's heir restores his cousins, the heirs of his father's sister, to part of their patrimony. Were it not for the ghost, we might say that the property was the protagonist here.

This narrative is well known as the last of the 'twelve medieval ghost stories' from Byland Abbey in North Yorkshire, transcribed and published by M. R. James in 1922.[13] Like the other stories, it was written in the early fifteenth century into the spare folia at the end of an older manuscript containing works by Cicero, and concerns specific people and places from the immediate vicinity of Byland. Unlike the other stories, with the twelfth it is possible to verify the historical existence of some of the people involved.[14] We know the exact date of the death of an Adam de London of Ampleforth – Friday 26 March 1361 – from an inquisition post mortem into his lands.[15] And William Trower appears as a defendant in a dispute over the violation of ecclesiastical rights in 1357, in a case heard before the archbishop's consistory court of York.[16] So while it is probably a stretch to say the story about Adam's sister is true in all of its details, the text was more than just a local legend; it is an account of real events that were apparently well known in that locale, and concerned people who were not long dead.

Its historicity, to which we will return below, is interesting not merely as antiquarian detail, but because it changes the way in which we ought to read the text. This was not only a ghost story, but a courtroom drama, a legal narrative that sought to explain the messiness of the proprietorial obligations between the living and the dead. As I will show, the ghost story makes possible an unusual critique of law from the vantage point of the great beyond, but in doing so, exposes a more fundamental problem with

[13] James, 'Twelve Medieval Ghost-Stories'. James's transcription of the story is not perfect. First, 'pugnando' (which James was unsure of) is incorrect – it seems to be 'perimplendo', which also makes more sense in the context. Second, it does not seem possible to derive 'non credo', James' rendering of Adam's response to Trower – though a disbelieving response is clearly implied by William's subsequent speech. The folio is nearly faded, and even using ultra-violet light I was not able to make out the missing text; it is a testament to James' skill as a palaeographer that he was able to get almost all of it without such modern conveniences.

[14] Although James and subsequent scholars guessed that the stories concerned real people, it was not until 2004 that Janet Burton found conclusive historical existence of Adam de London: Janet Burton, ed., *Cartulary of Byland Abbey*. Surtees Society 202 (Woodbridge: Boydell, 2004), 2–3.

[15] TNA, C 171/135/15, mm. 1–2. This is probably not the main Adam de London of the story, but rather his son, Adam Jr.; for why, see note 39, below. On inquisitions post mortem, see Michael Hicks, ed., *The Fifteenth-Century Inquisitions Post Mortem: A Companion* (Woodbridge: Boydell, 2012).

[16] BIA, CP.E.75.

the medieval law of property, and its concern with the wishes of the dead. In the next part of this article, I set out both the broad cultural and specific social contexts in which this story emerged; I then turn to read it as a critical commentary on the inadequacy of legal process in inheritance disputes. In the penultimate section, I suggest that we should understand the story in the context of the changing legal situation concerning inheritance with the statute *De donis* of 1285; but also that by reading it alongside these canonical legal texts, we can begin to see that they were possessed of a spectral imaginary all of their own. In the conclusion I take this thought up further, to consider the long and terrifying afterlife of inheritance.

Byland revisited

The Byland collection has been very well known to medievalists since they were first transcribed by James, aided perhaps by his own prominence as a writer of ghost stories.[17] The tales are, as he put it, 'strong in local colour', but also often 'confused, incoherent and unduly compressed'.[18] Some of them are bizarre, featuring shape-shifting spirits and complicated narratives, while others are more straightforwardly chilling, describing ghosts that simply creep up on the living and terrify them. One item in the collection is not a story at all, but characterised by the scribe as a 'marvel' ('mirabile dictu'), in which a woman is said to have taken hold of a spirit and plunged her hands into its rotten flesh; another text interspersed among this gamut of creepy incidents is a brief devotional treatise 'on the three forms of confession'.[19] Thus, whilst the collection of stories is unusual and in many ways highly intriguing, the strangeness of its contents and the peculiarity of its form represent something of a puzzle for interpretation.

The creatures and practices in many of the stories have long been understood in the context of folklore.[20] In the insistence that the restless dead might get up and walk from their graves, the tales seem to represent an alternative to Christian traditions of thought about the afterlife. Jacqueline Simpson has noted that similar motifs can be found in earlier and later English lore, as well as pointing to their possible parallels with eastern European vampires and the Icelandic *draugur*.[21] In an influential article, Nancy Caciola has suggested that the stories fit into a pattern of northern European popular culture which understood bodies to possess a vital force after death, in sharp contrast to learned medical and theological doctrines that conceptualised the mortal body as a mere carapace for an aerial soul or spirit.[22] Other aspects of the stories gesture to still more mysterious traditions: the second story, by far the longest and most elaborate of

[17] On James's medievalism, see Patrick J. Murphy, *Medieval Studies and the Ghost Stories of M.R. James* (University Park, PA: Pennsylvania State University Press, 2017). In addition to the citations that follow, the stories are mentioned in R.C. Finucane, *Appearances of the Dead: A Cultural History of Ghosts* (London: Junction Books, 1982), 78; and Catherine Belsey, *Tales of the Troubled Dead: Ghost Stories in Cultural History* (Edinburgh: Edinburgh University Press, 2019), *passim*.
[18] James, 'Twelve Medieval Ghost-Stories', 414.
[19] BL, MS Royal A 15 XX, f. 163r. It was deliberately omitted by James and to my knowledge has not been published. See James, 'Twelve Medieval Ghost-Stories', 420.
[20] James thought them redolent of Danish folklore: 'Twelve Medieval Ghost-Stories', 414. They are described as a 'sort of ethnological work before its time' in Jean-Claude Schmitt, *Ghosts in the Middle Ages: The Living and the Dead in Medieval Society*, trans. Teresa Lavender Fagan (Chicago, IL: University of Chicago Press 1998), 147.
[21] Jacqueline Simpson, 'Repentant Soul or Walking Corpse? Debatable Apparitions in Medieval England', *Folklore* 114 (2003): 389–402 (394–5).
[22] Nancy Caciola, 'Wraiths, Revenants and Ritual in Medieval Culture', *Past and Present* 152 (1996): 3–45.

the twelve, alludes to the practice of looking into a wood fire as an apotropaic practice against spirits, using stones as the basis for pledges and ritual purification, and to a complicated magical ceremony to summon a ghost.[23]

Despite these features, however, most of the stories also depend on a straightforward late medieval Christian theology for their drama and resolution.[24] They essentially square with the doctrine of purgatory, and may be understood as fulfilling a didactic function.[25] Most of the dead are said to walk because in life they committed a sin for which they were never shriven; they are able to rest once they have been confessed and absolved, and in a couple of cases, when Masses are said for their souls.[26] These features have led some historians to see the stories as a colourful collection of *exempla*.[27] Maik Hildebrandt has pointed to their context within the British Library manuscript, which contains a variety of moral and theological works, possibly used by the abbey as 'a reference book for moral, rhetorical and doctrinal instruction of clerics or monks'.[28] And Stephen Gordon has argued that the stories can be understood within a common pattern of 'repentant corpse' *exempla* narratives, used by preachers to emphasise the importance of deathbed confession and the sanctity of correct burial practices.[29]

Of course, it is not necessary to portray the stories as either pure folklore or pure religious doctrine. They can be understood within the framework of 'traditional religion' in late medieval England, which easily accommodated such mysteries.[30] At the same time, however, attempts to characterise the beliefs underlying the stories have tended to distract from the more preliminary problem of their heterogeneity. Indeed, it is worth considering how far the twelve stories represent a coherent corpus, as opposed to a more eclectic gathering of texts. As Arthur Bahr has argued, the miscellaneous forms of late medieval English manuscripts and their texts mitigate against readings that assume wholeness or internal coherence, and instead point to a textual hermeneutics founded upon fragment, assemblage and compilation.[31] The fact that the Byland texts were

[23] This is the story of 'Snowball' the tailor: James, 'Twelve Medieval Ghost-Stories', 415–18. It runs to just over 1300 words, more than twice the length of the next longest. Its description of the ceremony, which involves drawing circles on the ground, resembles practices described elsewhere in this period. See, for example, T.C.B. Timmins, ed., *The Register of John Chaundler Dean of Salisbury 1404–1417*. Wiltshire Record Society 39 (Gloucester: Alan Sutton, 1983), 94. On the use of rings and circles in elite and folk magic, see Richard Kieckhefer, *Magic in the Middle Ages*. 3rd edn. (Cambridge: Cambridge University Press, 2021), 159–61; Laura Theresa Mitchell, 'Cultural Uses of Magic in Fifteenth-Century England' (Ph.D. diss., University of Toronto, 2011), 194–5; and Kathleen Kamerick, 'Shaping Superstition in Late Medieval England', *Magic, Ritual, and Witchcraft* 3 (2008): 29–53 (33).

[24] The only exception to this is the fourth story in the collection, concerning the violent revenant of a rector named James Tankerlay: the solution is that the corpse is disinterred and cast into a mire. The author seems to acknowledge this was not strictly in line with Christian practice, asking forgiveness for himself for recording it, and for God's mercy on the rector: James, 'Twelve Medieval Ghost-Stories', 418.

[25] See the classic account in Jacques Le Goff, *The Birth of Purgatory*, trans. Arthur Goldhammer (Chicago, IL: University of Chicago Press, 1984), 289–333.

[26] Simpson, 'Repentant Soul or Walking Corpse', 395.

[27] This suggestion was first made in H.E.D. Blakiston, 'Two More Medieval Ghost Stories', *English Historical Review* 38 (1923): 85–7.

[28] Maik Hildebrant, 'Medieval Ghosts: The Stories of the Monk of Byland', in *Ghosts – or the (Nearly) Invisible: Spectral Phenomena in Literature and Media*, eds. Maria Fleischhack and Elmar Schenkel (Frankfurt: Peter Lang, 2016), 13–23 (21).

[29] Stephen Gordon, *Supernatural Encounters: Demons and the Restless Dead in Medieval England, c.1050–1450* (London: Routledge, 2020), 130–56, with an analysis of the Byland collection at 142–3.

[30] See Eamon Duffy, *The Stripping of the Altars: Traditional Religion in England, 1400–1580*. 2nd edn. (New Haven, CT: Yale University Press, 2006), 242–66.

[31] Arthur Bahr, *Fragments and Assemblages: Forming Compilations of Medieval London* (Chicago, IL: University of Chicago Press, 2013).

written by the same author, and share a thematic concern with the dead, does not mean that they all fulfilled the same purpose. Some were designed as *exempla*, some were simple miracles or marvels and some were local stories.[32]

The tale of Adam de London's sister fits into the last of these categories, along with the third Byland story (concerning Robert, son of Robert of Boltby) and the fourth (about James Tankerlay, the rector of Kirby). These 'local' stories differ from the others in several important ways. They all have specific protagonists, identified with both their first and second names.[33] In addition, they are all revenant narratives in which corpses walk from their graves, and thus in which the identity of the ghost is known from the outset. As such, the narratives do not depend so heavily as some of the others on mystery or revelation of secrets – they are presented as forthright accounts of events. Linked to this, none of the three stories has a strong didactic message; on the contrary, they are all markedly inconclusive.[34] Finally, and perhaps most tellingly, in all three stories the writer explicitly refers to their derivation from oral tradition.[35] Looking at their particular form and structure, then, it seems likely that these three tales were indeed local stories or legends, even while the status of the others is more ambiguous.

Even within this subset, though, the de London story stands somewhat apart. It was not grouped together with the other two local stories, but placed on its own at the very end of the collection – unlike the other texts in the collection, which were arranged continuously across folia, it was composed separately, on the last verso page of the manuscript.[36] This codicological separation is matched by its distinctive narrative, content and purpose. It is the only tale in which the revenant was a woman (an unusual feature in the genre of medieval ghost stories as a whole). Unlike the other two local tales, moreover, in which the revenants are clearly understood to have been evildoers whose ill will continued into the afterlife, the ghost of Adam de London's sister has a more complicated status as both a malefactor and a penitential victim; it is Adam himself who is the real villain of the piece, violently ousting her husband and sons, and refusing to listen to the entreaties of his dead sister. The drama hinges around his possession of the charters, and the conflict is only resolved after his death.

The story also seems to be distinguished from the others by the status of the characters as substantial village freeholders, the kind of people who might, in a later period, have been classed as yeomen.[37] The scribe is very specific about the lands that the sister

[32] The lack of uniformity is briefly noted in Gordon, *Supernatural Encounters*, 142. It has been suggested that all of the stories are local legends in Gwenfair Adams, *Visions in Late Medieval England: Lay Spirituality and Sacred Glimpses of the Hidden Worlds of Faith* (Leiden: Brill, 2007), 215–16.

[33] This is also true of the ninth Byland story, but this is explicitly described by the scribe as a miracle story, has a strong didactic message and the narrative relies on the revealing of the ghost's identity.

[34] The narrative of Robert of Bolteby Jr. is resolved by the confession and absolution of the spirit, but finishes by casting doubt on the reasons for the ghost's appearance, with the scribe referring to 'other evil things of which I must not speak in detail at present' ('fecit alia mala de quibus non est dicendum per singula ad presens'): James, 'Twelve Medieval Ghost-Stories', 418.

[35] The reference to oral tradition is different across the third (*dicitur*; *referunt aliqui quod*), fourth (*tradunt veteres quod*) and twelfth Byland stories (*secundum relacionem antiquorum*). It is also true of the ninth story (*Refertur quod*; *dicitur*), which does not otherwise fit so well with the others, being vague on detail and having a more explicit moral message: James, 'Twelve Medieval Ghost-Stories', 420.

[36] BL, MS Royal A 15 XX, f. 164v. It is also worth noting that the collection overall is split into two. The first half ends at f. 143r with the ninth Byland story. The second half begins on f. 163v with the treatise on confession, continuing with a brief marvel omitted by James on account of its derivativeness, and then with the tenth Byland story.

[37] On this status, see Louisa Foroughi, 'What Makes a Yeoman? Status, Religion, and Material Culture in Later Medieval England' (Ph.D. diss., Fordham University, 2020).

repossessed: a dwelling and a garden in Ampleforth, and a bovate of land in Heslerton.[38] While a bovate was not an exceptionally large amount of land, at around 15 acres, it was just one part of the de London family holdings. Walter de London had been granted half a carucate (that is, four bovates) in Ampleforth in 1202, which passed to his son William in 1250 and grandson, also Walter, in 1285; these were presumably the same four bovates that Adam de London Jr. held at his death in 1361, along with a watermill and a close of woods, for a total annual rent of 26*s*. 8*d*.[39] This was a significant holding, and its long continuity in the same family would have marked out the de Londons as leading members of the village community.[40] The family also had a connection to Byland Abbey, where the British Library manuscript originated; a transaction by Walter de London in 1282, 'for the salvation of the soul of the donor, and of his ancestors and heirs' was renewed by Adam Sr. in 1331–2, witnessed by local clergy and estate officers.[41]

Yet for all their local prominence, the family had disappeared from Ampleforth within a generation of Adam de London Jr.'s death in 1361. By the turn of the fifteenth century his four bovates were in the hands of John de Kirton, and had subsequently passed to the Crown – in 1408 these and the watermill were granted to Moxby Priory.[42] In the surviving manorial court rolls of Ampleforth, beginning in 1431, there is no sign of anyone by the name de London.[43] This relatively rapid fall from grace may help to explain something of the context for the story's function in the locality. The scribe was writing after 1399, and probably in the early fifteenth century.[44] An important family who had held land in the village for five generations or more died out, and its property was dispersed. Within a few years, local people began to reminisce about the vicious property dispute among the de Londons two generations before, about 'old Adam de London', as he is

[38] James, 'Twelve Medieval Ghost-Stories', 422.

[39] On the ancestors, see 'Ampleforth', in *Victoria History of the Counties of England: A History of Yorkshire: North Riding*, ed. William Page. 2 vols. (London: St Catherine Press, 1914), 1: 462–3; for his holdings at death, see TNA, C 171/135/15, mm. 1–2. This document names the heir of this Adam de London as John, who was aged two at this time, whereas the Byland story names Adam de London's heir as another Adam. This disparity actually helps to roughly date the Byland story. Given that Adam de London Sr. made a contract in 1309 (see note 40, below), he must have been of legal age and likely at least in his 20s; this would have made him a very old man by 1361, and almost certainly too old to be father to a two-year-old son. Therefore, I think it is likely that there was an intervening generation, and that the Adam who is declared dead in the 1361 document refers to the Adam Jr. named in the story. In turn, we may guess that the events of the Byland story took place some time between the 1320s and 1340s; given that William Trower – if he was the same man – was still alive in 1357, it seems likely that it was towards the later part of this period. Throughout the main text, I refer to Adam de London meaning Adam Sr., unless I explicitly state otherwise.

[40] Other scattered evidence confirms this impression. Walter de London seems to have been well connected, acting as a witness to the charters of prominent gentry families in the North Riding: Burton, ed., *Cartulary of Byland Abbey*, 183, 186, 243 and 345. Likewise, in 1340, Adam Sr. acted as witness to a pledge to warranty alongside Marmaduke Darrell, *inter alia* (5). The same impression is gained, more distantly, from a debt recognizance of 1309, which records that Adam Sr. owed Geoffrey de Eston some £40, a large sum (TNA, C 241/82/133); Eston was bailiff of Bulmer wapentake in 1310, when he was accused of committing 'incest' with a nun of Ardern Priory: W. Brown and A.H. Thompson, eds., *The Register of William Greenfield, Lord Archbishop of York, 1306–1315*, part 3. Surtees Society 151 (Durham: Andrews, 1936), 56 (no. 1256).

[41] Burton, ed., *Cartulary of Byland Abbey*, 1–3. Sometime probably in the 1270s, John, son of Ranulf of Kirby, was given lands by an unnamed widow, carrying a rent of 14*d*. He gave the land to the abbey, in exchange for their remitting some money he owed them, on the understanding they would pay the annual rent to Walter de London, his uncle. Eventually, in 1282, Walter gave up his right to the rent.

[42] 'Ampleforth', in *VCH Yorkshire: North Riding*, ed. Page, 1: 463.

[43] BIA, CCP 12/Amp 1, recto. As free tenants, they might not have held land of the manor (a prebendal manor of York cathedral), but it is another piece of circumstantial evidence of their disappearance.

[44] The second Byland story is said to have taken place 'in the time of Richard II', suggesting that the collection was written after 1399. As James and others have suggested, though, the scribe's handwriting would place it in the earlier part of the fifteenth century: James, 'Twelve Medieval Ghost-Stories', 414.

called in the story, and the mysterious happenings around the time of his sister's death. What could be more horrifying than the destruction of patrimony? Some kind of explanation was required, and the old men were there ready to give their account to anyone who would listen.

'Everything I have said to you is true'

This narrative, then, is not simply a ghost story. It is a local history about a particular family and its property, about the dispersal of an inheritance. It is also a story about law – and its inadequacies. There are a couple of reasons to think that law was close to the surface of the scribe's mind when he wrote it down. He was clearly familiar with legal formulae. The specific description of the property in dispute – 'that is, a toft and a croft with appurtenances in Ampleforth, and in Heslerton a bovate of land with appurtenances' ('videlicet uno toft et crofte cum pertinenciis in Ampilford, et in Heslarton de una bovata terre cum pertinenciis') – and its precise language may even suggest that he had some of the relevant documents before him.[45] But there are also several moments in which legal procedures become the focus of the narrative: the illicit retention of charters and the sister's habit of false swearing both suggest a particular interest in the corruption of law; the intervention of William Trower, moreover, looks very much like a flawed attempt at arbitration. As I shall suggest in what follows, the writer shows a recurrent concern with the fallibility of legal process, and the difficulty of establishing the truth about claims to property.

On its surface, the narrative revolves around the injustice committed by Adam de London's sister in depriving her husband and sons of the lands they held together. In the common law doctrine of coverture, husband and wife were considered a single legal entity, and married women could not own property separately. If a wife wished to dispose of her inheritance or dowry, she had first to obtain the consent of her husband.[46] Adam de London's sister, then, in returning the land to her brother while her husband lived, was not only acting against one of the foundational misogynist principles of the common law, but also against the more specific regulations governing the transfer of marital property. There was, in short, no obvious legal basis for her actions or those of her obstinate brother. The scribe writes, quite correctly in point of law, that her actions were 'unjust' ('iniuste'), and 'in prejudice of her husband and her own sons' ('in preiudicium predicti viri sui et propriorum filiorum').

Their difficulty, of course, was that she had given her brother the charters for the lands. While technically such documents were far from incontrovertible proof of right, by the early fourteenth century, charters had become so common that they came to represent ownership itself.[47] Certainly, the narrator and everyone in the story seems to accept that control of the charters gave Adam de facto control over the property; the ghost

[45] James, 'Twelve Medieval Ghost-Stories', 422.
[46] See Baker, *Introduction to Legal History*, 522.
[47] In medieval common law, charters were 'not the deed but only evidence of the deed' that conferred ownership to land; the deed was the public conveyance of the land before witnesses, a ceremony known as livery of seisin. See Paul Harvey, 'English Estate Records, 1250–1330', in *Pragmatic Literacy, East and West, 1200–1330*, ed. Richard H. Britnell (Woodbridge: Boydell, 1997), 110, quoting the statement of a common law judge in 1297. More generally on the use of charters, see Michael T. Clanchy, *From Memory to Written Record: England 1066–1307*. 2nd edn. (Oxford: Blackwell, 1993), 257–60.

even asks her brother to 'give back the charters to her husband and sons, and restore them to their land' ('redonare marito suo et filiis easdem cartas et restituere illis terram suam'), seeming to make an equivalence of the two.[48] But the issue of the charters also highlights the scribe's broader emphasis on the fragility of the truth claims that underlay property rights. Adam de London had seisin of the lands based upon his effective possession (achieved by violence) and had in his power the ill-gotten charters; it was manifestly wrong, and yet, in the logic of the story, apparently unassailable.[49] The husband and sons had a moral and a legal right to the lands, but were unable to overcome the formalised force of charters combined with the informal influence and power of a prominent local family.[50]

This concern with the unreliability of charters for establishing property rights is linked to the writer's general problem with legal proof. This is apparent in his description of the sister's drooping, blackened hand, a punishment imposed in the afterlife for her habit of swearing false oaths. Here the tale looks a little more like an *exemplum*. Almost every kind of law court in late medieval England depended on sworn oral statements as a means of establishing facts, and there was a pervasive moral concern with the possibility of false swearing.[51] To be called 'forsworn' or a perjurer was a grave matter, and a frequent subject of defamation litigation.[52] The scribe, in describing the sister's punishment, stresses the instability of legal truth obtained through worldly institutions, in contrast to the incontrovertible truth of divine justice. Indeed, the ghost twice mentions this possibility, telling Adam de London that regardless of what he does, 'God will judge between me and you on this matter' ('iudicet deus inter me et te ob quam causam').[53] To the extent that the story has a moral message, it is that the truth will come out in the end (and so it is better to repent now). But of course, this leaves the fraught problem of who and what to believe in the meantime.[54]

The character who personifies this conundrum is William Trower. His very name would have recalled for speakers of Middle English an association with misplaced trust.[55] He is crucial in driving forward the narrative, acting as an intermediary between Adam de London and his dead sister. His attempt to negotiate a settlement through persuasion fits closely with the broader culture of conflict resolution in medieval

[48] It is likely that the writer has in mind charters issued in chirograph, whereby each party to the gift received a duplicate made from the same piece of parchment (a common device used to prevent deceit). When the wife gave away the part belonging to the couple, the husband had nothing to prove the gift, and was thus powerless to resist expulsion. On chirographs, see Clanchy, *From Memory to Written Record*, 87–8.

[49] Technically, the husband would have been able to pursue a legal claim by an action of right, which would have required proof by battle or the grand assize, and might also have had a claim by novel disseisin or warranty of charter, but any of these options would have cost a great deal of time, money and probably social capital, which likely explains the recourse to informal arbitration. My thanks to Paul Hyams for these suggestions.

[50] I have written about this quality of legal documents elsewhere: Tom Johnson, *Law in Common: Legal Cultures in Late-Medieval England* (Oxford: Oxford University Press, 2020), 266–8.

[51] See Ian Forrest, *Trustworthy Men: How Inequality and Faith Made the Medieval Church* (Princeton, NJ: Princeton University Press, 2018), 33–62. On legal corruption in general, see Christine Carpenter, 'Law, Justice and Landowners in Late Medieval England', *Law and History Review* 1 (1983): 205–37.

[52] For example, see Richard Helmholz, ed., *Select Cases on Defamation to 1600*. Selden Society 101 (London: Selden, 1985), xxii–iii, xxvii, xlii and lxxxiii.

[53] James, 'Twelve Medieval Ghost-Stories', 422. It is possible that this was a reference to an oath, or even a jury decision. My thanks to Paul Hyams for this suggestion.

[54] Forrest, *Trustworthy Men*, 15–16.

[55] The noun *trouere* in Middle English means 'a credulous person', literally, one who trusts, from the verb *trouen*. On the discourse of law, truth and trust in the later fourteenth century, see Richard Firth Green, *A Crisis of Truth: Literature and Law in Ricardian England* (Philadelphia, PA: University of Pennsylvania Press, 1999), especially 100–8.

England and beyond; more or less formal arbitrations, led by upstanding and impartial neighbours, were a widespread alternative to the stringent procedures of the common law courts.[56] Yet as the one who 'caused the ghost to be conjured' ('coniurata confitebatur'), he also represents some thornier problems. Not only are his motivations unclear in the narrative, but his act of 'conjuring' presents, in Latin, a further association with oaths, and sworn conspiracies in particular (*con-iurare* meaning literally 'to swear together').[57] That the ghost only appears at Trower's summons was perhaps intended to be suspicious, and at the very least, seems to place a strain on his credibility as a neutral mediator.

What we know about the historical William Trower, moreover, suggests some local notoriety. In 1357, he appeared as a co-defendant in a case before the archbishop of York's consistory court concerning the despoliation of church goods. It was alleged that he and three others had cut down 24 'large and very beautiful' ('magna et pulcherrima') ash trees from the cemetery in the village of Ness, a dependent chapel of the parish of Hovingham, about five miles from Ampleforth.[58] They had bought the 'right' to do so for 100*s*. from John Pert, a local lord, suggesting that Trower and the others were wealthy villagers, perhaps of a similar status to the de Londons.[59] The prior and convent of Newburgh who held the Hovingham benefice argued that the churchyard and everything in it belonged to them by right, and that Trower had known full well that a pre-emptory sentence of excommunication had been laid by the archbishop against anyone who cut the trees.[60] Interestingly, they also alleged that many of the depositions made for the defence should be struck down as evidence, as the witnesses were Pert's bond tenants and had been ordered by him to give false testimony.[61]

[56] Generally, see the essays in the foundational collection: John Bossy, ed., *Disputes and Settlements: Law and Human Relations in the West* (Cambridge: Cambridge University Press, 1983). For a useful overview of more recent literature, see John Jordan, 'Rethinking *Disputes and Settlements*: How Historians Can Use Legal Anthropology', in *Cultures of Conflict Resolution in Early Modern Europe*, eds. Stephen Cummins and Laura Kounine (Farnham: Ashgate, 2016), 17–50. On arbitration in medieval England, see Edward Powell, 'Arbitration and the Law in England in the Late Middle Ages', *Transactions of the Royal Historical Society*, 5th series, 33 (1983): 49–67; idem, 'Settlement of Disputes by Arbitration in Fifteenth-Century England', *Law and History Review* 2 (1984): 21–43; Carole Rawcliffe, '"That Kindliness Should be Cherished More, and Discord Driven Out": The Settlement of Commercial Disputes by Arbitration in Later Medieval England', in *Enterprise and Individuals in Fifteenth-Century England*, ed. Jennifer Kermode (Stroud: Sutton, 1991), 99–117; Lorraine Attreed, 'Arbitration and the Growth of Urban Liberties in Late Medieval England', *Journal of British Studies* 31 (1992): 205–35; and Ben R. McRee, 'Peacemaking and Its Limits in Late Medieval Norwich', *English Historical Review* 109 (1994): 831–66.

[57] This etymological association between 'conjure' and *coniurare* is central to the concept of 'hauntology'. See Derrida, *Spectres of Marx*, 58–9 and 62–3. It is also highlighted in Jennifer Jahner, *Literature and Law in the Era of Magna Carta* (Oxford: Oxford University Press, 2019), 109.

[58] BIA, CP.E.75, no. 8. The particular reference to the great beauty of the trees is from the deposition of the chaplain Roger de Slektholm.

[59] Like the de Londons, the Trowers had disappeared from Ampleforth by the time of the first surviving manorial court roll in the 1430s. Several men, however, bear the admittedly common name of one of Trower's co-defendants, John Wryght – one, Robert, was even presented for cutting down the lord's trees: BIA, CCP 12/Amp 2, m. 2v. John Pert is named as 'lord of Ness', and the heir of William de Crathorne, who was killed at Neville's Cross in 1346; he was perhaps a collateral heir, as he does not appear in the genealogy for the manor, which later returned to the male line of the Crathorne family. See 'Hovingham', in *VCH Yorkshire: North Riding*, ed. Page, 1: 508–9; and 'Crathorne', in *VCH Yorkshire: North Riding*, ed. Page, 2: 235–6.

[60] BIA, CP.E.75, no. 8. It was said that the sentence was pronounced in English (*vulgariter*), in the parish churches of Hovingham and Ampleforth, and the chapel at Ness.

[61] BIA, CP.E.75, no. 1 (*cedula*). On the process of taking exceptions against witnesses, see R.H. Helmholz, *The Oxford History of the Laws of England*, vol. 1: *The Canon Law and Ecclesiastical Jurisdiction from 597 to the 1640s* (Oxford: Oxford University Press, 2004), 338–41. While witness intimidation was certainly a reality in this period, witnesses were also shrewd legal operators in their own right, and capable of shaping their testimony to serve a variety of interests. See Tom Johnson, 'The Preconstruction of Witness Testimony: Law and Social Discourse in England before the Reformation', *Law and History Review* 32 (2014): 127–47.

Whether Trower's local reputation as a despoiler of church goods and a party to witness intimidation had survived beyond the late fourteenth century is impossible to say. But within the story, too, his credibility is open to question: when he reports the ghost's appearance and demands to Adam de London, he is disbelieved, and becomes defiant. The social reputation of prominent local men, their very masculinity, depended on making true pronouncements in public – often in law courts or other legal settings.[62] And indeed, Trower's annoyed retort to Adam echoed the formulaic statements that were frequently attached to jury verdicts: 'Everything I have said to you is true' ('verus est in omnibus sermo meus').[63] Was this supposed to be funny to a local audience familiar with his misdeeds? Trower's vindication, as he physically carries this corporeal revenant to Adam's chamber, has an element of farce.[64] His character is thus difficult to read: he could be understood as an honest broker who reports truthfully, and acts as a conduit to the higher truth represented by the ghost; or he could be seen as meddling neighbour, who 'conjures' a ghost in order to cause trouble.

Perhaps this ambiguity is precisely the point. In the last two sentences of the text, the scribe steps back from the narrative to offer a commentary on the story's veracity. First he writes: 'I must ask forgiveness if it should happen that I have offended in writing what is not true.'[65] Raising this spectre of uncertainty right at the end of a ghost story seems uncannily modern – we might say Jamesian – in its sensibility.[66] It is chilling precisely because it denies the audience the possibility of resolving the epistemological status of the narrative. Was it true, or not? Ghosts cause problems because they are paradoxically present and absent at the same time – what Derrida calls 'the furtive and ungraspable visibility of the invisible' – and it is striking that the scribe chose to conclude not just the de London story, but his whole compilation by casting doubt upon the truth of his writing.[67] It is a rhetorical technique laid open by a ghost story, but one that represents a stark contrast to the cold certainty of legal decisions.[68] Yet the scribe does not finish quite there. The final sentence, in fact the very last line of the manuscript, records: 'But it is said that Adam Jr. made partial satisfaction to the true heir, after the death of Adam Sr.' ('dicitur tamen quod Adam iunior vero heredi partim satisfecit post mortem Ade senioris').[69] Right at the close, after all this confounding doubt, we are left to grasp at the truth of inheritance. Surely that was real enough?

[62] See Derek G. Neal, *The Masculine Self in Late Medieval England* (Chicago, IL: University of Chicago Press, 2008), 42–5; and Forrest, *Trustworthy Men*, 194. That Thrower should probably be regarded as such a man is outlined below.
[63] James, 'Twelve Medieval Ghost-Stories', 422. A jury's verdict (*veredictum* = true statement) became legally binding once it had been endorsed by the words *verus est*.
[64] The ghost in the fifth Byland story is also 'carried on the back' (*portavit … super dorsum*). This aspect of their physicality is noted in Caciola, 'Wraiths and Revenants', 20.
[65] James, 'Twelve Medieval Ghost-Stories', 422.
[66] Indeed, M.R. James' stated aim with his stories was to make 'their readers to feel pleasantly uncomfortable when walking along a solitary road at nightfall' (quoted in Murphy, *Medieval Studies and M.R. James*, 3).
[67] Derrida, *Spectres of Marx*, 6.
[68] I have written about this elsewhere: Tom Johnson, 'Soothsayers, Legal Culture, and the Politics of Truth in Late-Medieval England', *Cultural and Social History* 17 (2020): 431–50.
[69] James, 'Twelve Medieval Ghost-Stories', 422.

The ghost in the law

We can read the story of Adam de London's sister in a few ways. It seems to have been a local legend, derived from oral tradition, about the decline and fall of a prominent family one or two generations past. In the Latinate textual form given to it by our monastic scribe, it is also a critique of law, and its incapacity to establish and enforce the truth through procedures such as charters, oaths and arbitrators. Taking these together, it might be understood as a parable with a set of complex but coherent messages about inheritance. The story contains an implicit lesson that wives should prioritise their husbands over their brothers, their conjugal family over their natal line. Their essential function in a patrilineal kinship system was to transmit property, and the story is clear that if they took it upon themselves to interfere with this, then no good could come of it. It was a basic matter of moral right that heirs ought to receive their inheritance, even in spite of the corruptible and powerless legal institutions that were supposed to protect them. And if that did not happen, divine justice would out in the end. If you would not do right by true heirs – well, you heard about what happened to the de Londons.

Reading the story as a critical commentary on the relationship between law and inheritance rights fits closely with the broader legal context. Its central events took place in the generation after the promulgation of a crucial piece of property legislation, which was concerned with problems related to those that faced Adam de London and his sister.[70] The statute known as *De donis conditionalibus* was promulgated at the Westminster parliament of 1285.[71] Simply put, it strongly buttressed the right of inheritance, forbidding landholders from giving away land that had been granted to them and their heirs. It had far-reaching consequences for English land law, as it helped to solidify the doctrine of estates – the notion that land was never owned outright, but rather subject to various interests or 'estates' belonging to different parties, some stronger (such as a 'fee simple', a heritable freehold estate), and some weaker (such as a life interest or a leasehold), that could coexist simultaneously. This doctrine made possible a conception of infinite interests in property, a form that proved powerfully haunting in the *longue dureé* – an 'inherited evil' from an 'antiquated mode of production', in Marx's terms. And in this penultimate section I would like to make one more argument: reading the story of Adam de London's sister as a response to *De donis* helps us to understand the concerns of both texts with the demands of the dead. Her ghost did not walk alone – this law conjured plenty of spectres of its own.

As Joseph Biancalana has argued, *De donis* was not only the product of long-term tensions created by Henry II's legal reforms in the later twelfth century, but also a more specific, short-term concern to resolve problems raised by judicial decisions in the early 1280s.[72] The long-term tension lay in the elaboration of stricter rules about the transfer of property in common law, and its effects on the widespread practice of making conditional grants. Such grants were often used by women's families to settle property upon newly-weds at their marriage – the situation from which I think the Byland story proceeds. Before *De donis*, these dowry gifts were made to the couple

[70] On the dating of the story, see note 40, above.
[71] See A.W.B. Simpson, *A History of the Land Law*. 2nd edn. (Oxford: Oxford University Press, 1986), 81–102.
[72] For this and what follows, I rely on Joseph Biancalana, *The Fee Tail and the Common Recovery in Medieval England: 1176–1502* (Cambridge: Cambridge University Press, 2001).

and the issue of their bodies, with the condition that if the marriage failed to produce any children, the land would revert to the wife's family. The wording of such gifts had to be done very carefully, because the tightening common law rules of inheritance had made blood relation to a man the exclusive criterion of succession; in other words, there was a risk that if heirs failed, the gifted land would revert automatically to the collateral heirs of the husband (for example, his nephews), rather than returning to the original donors, the wife's family.

The problem that arose from these conditional grants, however, was the status of the husband and wife. If the land was granted on the basis that they produced children, and they did, they would seem to have fulfilled the condition of the grant – but did that mean the land was now theirs to give away? What if their child died before it came of age? What if they granted the land away, *then* had a child (and what if he or she subsequently died)? In an era of high infant mortality, these were not hypothetical questions. Different answers were given throughout the thirteenth century, but a general principle emerged: the conditions of such grants were fulfilled only when there was a child who survived their parents to inherit the land.[73] But in a case of 1281, in which a couple had had two sons who both predeceased them, this principle underwent a reversal. The justices in this case were ready to rule that the condition of this grant was fulfilled by the mere birth of a child, regardless of whether or not it survived. This thinking seemed to mitigate against the very purpose of marriage grants, in particular, that were designed to help establish a new family with its own patrimony, to be enjoyed by subsequent generations. In a deep irony, the decision made the birth of an heir the legal basis for the giving away of their inheritance.

De donis was explicitly designed to overturn this decision, to firm up the strength of the intentions of the donors against the rights of donees, and above all, to prevent parents from granting away property that had been given not just to them, but to the subsequent generations of their family line. The drafters of the statute did not attempt to come up with a clever remedy, but simply made a hard-and-fast rule: 'the will of the donor, according to the form clearly expressed in the charter of his gift, shall henceforth be observed … so that those to whom a tenement is so given upon condition shall not have the power of alienating the tenement so … that it will not remain to the issue of those to whom the tenement was so given after their death, or to the donor or his heir if issue fails.'[74] In other words, conditional grants made to a couple and 'the issue of their bodies' could not be given away by the couple: the gift had to be inherited. Yet this firm rule did not have the effect of taking the law back to the situation before 1281. Rather, in its great brevity, it created a much more extreme position, establishing the rights of potential future heirs above those of living donees.

The statute did not clarify whether the birth of a surviving heir would fulfil the conditions of the gift. Indeed, it significantly muddied the water because it implied that the purpose of restricting alienation was to preserve the possibility of reversion to the donor.

[73] Biancalana, *Fee Tail and the Common Recovery*, 20–37. This was only true in the case of grants in fee tail; similar grants made in *maritagium* or frank-marriage maintained a three generation after the original grantee rule. There were intricate differences between these two kinds of tenure (and between different kinds of conditional grants more generally). While these were important for the development of inheritance law, they are not important to the thrust of my general argument, so I am omitting discussion of these distinctions here.

[74] This translation is from John Baker and S.F.C. Milsom, *Sources of English Legal History: Private Law to 1750* (Oxford: Oxford University Press, 2019), 52–3.

This meant that not only were the donees forbidden from giving away the property, but so too were their heirs.[75] But how many heirs? Answers to this question gradually changed over the course of the fourteenth century. Although in the first decades after 1285, lawyers and justices seem to have relied upon the 'single surviving child' principle that had pre-dated *De donis*, the ambiguity of the statute's wording allowed a gradual expansion of its meaning.[76] By the 1330s, despite complaints to parliament, there was a general understanding that the restriction on alienation lasted to the third heir after the original donee; by the 1420s, just after the Byland stories were written, legal opinion had hardened to the position that the restriction on alienating grants in fee tail lasted indefinitely. The phrase 'and the issue of their bodies' had come to refer to the entirety of the future projected family line, establishing the granted land as patrimony in perpetuity. It was a bizarre rule that placed a restriction on the ability of landowners to do what they wanted with their property, and would have quickly frozen the property market had it been allowed to stand – but soon afterwards clever lawyers found an elaborate way of bypassing it.[77]

It is possible to explain the ambiguity of *De donis* in purely legal terms, as Biancalana has ably done. But I would like to suggest that there was also a broader cultural logic to the statute, a ghostly legal reasoning that compassed the problems of ancestors, property and heirs. The statute's explicit concern was that the 'will of the donor' should be upheld by law. But this will was accorded a preternatural endurance, an agency that long outlasted the mortal donor. Every conditional grant after *De donis* created a ghost, an interest that lingered in the property itself, exercising a powerful and malevolent force over the living, willing the establishment and continuance of the family. By the later fourteenth century, this will was not even satisfied by the birth of a child, or the provision of an heir; rather, it persisted in the property for all time, looking over the shoulder of every generation. On the contrary, the only way to truly extinguish this force was through the death or childlessness of an heir. Then and only then could the donor's will retire its ghostly watch, as the property was removed from the line established by the original donees, and taken back to the donor's natal family. If not, the intentions of the dead would remain to bind the living. *Le mort saisit the vif!*[78]

The events rehearsed in the Byland Abbey story took place in the early to middle part of the fourteenth century, when the consequences of *De donis* were still being worked out. Although we are not privy to the precise legal situation under which Adam de London's sister and her husband were granted their bovate and appurtenances in Ampleforth and Heslerton, if it was indeed a marriage settlement, it would have been covered by the provisions of the statute.[79] And at its core, the story raises exactly the same problem –

[75] For an explanation of why the drafter of the statute might have done this, see Biancalana, *Fee Tail and the Common Recovery*, 88.
[76] For this and what follows, see Biancalana, *Fee Tail and the Common Recovery*, 106–21.
[77] This was the common recovery, a legal fiction in which a series of invented dispossessions and repossessions by trustees were used to create a kind of 'paper trail' that allowed the heir to claim fee simple. This device first appears in the 1440s.
[78] Interestingly, the last line of the statute's main text seems to closely follow the sentiment of this maxim (my emphasis): 'But *immediately* upon the death of the man and woman to whom a tenement was so given, [the tenement] after their death [shall] either [pass] to their issue or shall revert to the donor or to his heir as is aforesaid', trans. Baker and Milsom, *Sources of English Legal History*, 49–50.
[79] Indeed, one of the other provisions of *De donis* may help to explain much more about the story, if we assume for a moment that this was the sister's second marriage. The last part of the statute runs: 'Nor from henceforth shall the

should the wishes of the dead take precedence over the freedom of the living? – and gives exactly the same answer: yes, they absolutely should. The sister's ghost is many things. She is a revenant, conjured before the living to make threats from the horrors of purgatory; she is a symbol of the emptiness and corruptibility of legal rights; and she is a cipher for the problematic position of women as transmitters of property in patrilineal kinship systems, caught between their natal and conjugal families.[80] But in a society still working out the ramifications of *De donis*, she might also be understood as the unearthly force of inheritance, a corporeal expression of 'the will of the donor': a nightmare that weighed on the minds of living.

The afterlife of inheritance

As John Bossy wrote nearly 40 years ago, we should regard 'the quick and the dead as two distinct, contrasted and, in some respects, opposed articulations of a single social whole' in the later Middle Ages.[81] But historians have perhaps been slow to attend to the legal and political dynamics of such a society. One way of doing so, as I hope to have shown here, is to look to medieval ghost stories as sources that can reveal a great deal more than just religious belief. Indeed, the story of Adam de London's sister imparts rather little about the popular acceptance of purgatory or the importance of Masses for the dead. But it has a great deal to say about property and inheritance, the difficulty of trusting oaths, and the stark contrast between earthly and divine justice. If these are attitudes that are familiar to us without the help of spectres, they take on a particular hue in the presence of a revenant corpse with a mangled hand, pleading for the righting of a wrong so that she may be allowed to rest in peace.[82] They suggest a sense of right that was felt in one's bones – and those of one's ancestors.

There has been a tendency for historians to use the manifold property disputes of late medieval England as a kind of metric for judging the relative strength or weakness of legal institutions in the era of 'bastard feudalism'.[83] Whatever the value of such questions, they tend to reduce such disputes to grasping wrangles conducted out of acquisitive self-interest. While such motives were undoubtedly present, they hardly represent the full range of ways in which contemporaries thought about property and inheritance – or indeed, the ways in which they did *not* think. Paul Hyams has suggested the 'kinds of rancor and resentment' that might lie 'behind the lawyers' law of … property litigation',

second husband of such a woman have any [right] in a tenement so given upon condition after the death of his wife by the [curtesy] of England, nor shall the issue of the woman and her second husband [have any right of] hereditary succession', trans. Baker and Milsom, *Sources of English Legal History*, 49–50. If this were the case, it would mean that Adam de London and his sister were quite within their rights to deprive the husband and her sons of the property. There is, however, no evidence of this either way. If he was her first husband, then he would have enjoyed 'curtesy' tenure in the property as a life interest, and her sons would have had a much more straightforward case to reclaim the property through a writ of mort d'ancestor or novel disseisin.

[80] See Schmitt, *Ghosts in the Middle Ages*, 187–8.

[81] John Bossy, 'The Mass as a Social Institution, 1300–1700', *Past and Present* 100 (1983): 29–61 (37).

[82] For such attitudes, see Anthony Musson and W.M. Ormrod, *The Evolution of English Justice: Law, Politics and Society in the Fourteenth Century* (Basingstoke: Palgrave, 1999), 161–93.

[83] Robert C. Palmer, *The Whilton Dispute, 1264–1380: A Socio-Legal Study* (Princeton, NJ: Princeton University Press, 1984); Simon J. Payling, 'Inheritance and Local Politics in the Later Middle Ages: The Case of Ralph, Lord Cromwell, and the Heriz Inheritance', *Nottingham Medieval Studies* 30 (1986): 67–96; Roger Virgoe, 'Inheritance and Litigation in the Fifteenth Century: The Buckenham Disputes', *Journal of Legal History* 15 (1994): 23–40; and Simon J. Payling, 'Legal Right and Dispute Resolution in Late Medieval England: The Sale of the Lordship of Dunster', *English Historical Review* 126 (2011): 17–43.

and certainly, there seems to be a depth of emotion in the de London story that possibly eludes words.[84] Without such stories, I think, it would be hard to appreciate the molten anger, the 'fierce volition' that could quite literally raise the dead, which might underly such disputes.[85]

It also points us towards cultural attitudes towards property that might encompass, but were not reducible to, either legal discourse or material interest. Property was also place, enshrining connection between a family and a particular farmstead or group of lands. We can sense this, faintly, in the countless personal names given to fields in manorial court rolls of this period (and conversely, the development of topnymic surnames), and indeed in the great continuity of association between certain families, like the de Londons, and a particular set of holdings. Yet it is perhaps in the dramatic undoing of such connections that we can best see what they meant to people. The terror of the Byland story derives in large part from the revenant sister's boundless wandering, unmoored from both her natal and conjugal families, and her threat that Adam himself, the paterfamilias, would walk forever if he failed to provide redress. This is the dark mirror of a sense of property as a kind of rootedness, perhaps even a haunting – a sense between people and things that escapes legal discourse.[86]

But perhaps this discourse was more fluid than we tend to admit. The writer of *Bracton*, an influential thirteenth-century legal treatise, noted in a rather matter-of-fact way that 'there are as well incorporeal things which do not exist in contemplation of law, as *genera* and *species*, good and evil spirits, the soul of the world and the souls of men.'[87] Perhaps this was true in a merely formal sense. But as Colin Dayan has shown, modern notions of legal personhood – and thus of civil rights – depend crucially on the spectre of their negation beyond the realm of legality, in the figure of the slave, the stateless refugee, the 'illegal' immigrant.[88] And as I have been suggesting, even a medieval legal discourse formally purged of ghosts nonetheless depended on a spectral logic – recognising the phantom will of a long dead donor and the haunting claims of an unborn heir – in order to substantiate the strange entitlements demanded by the inheritance of property.

Another treatise, *Britton*, translating and expanding *Bracton* in the early fourteenth century, noted that 'the seisin of every right heir is so pliant, that the mere setting of his foot in the main farmstead of his inheritance is sufficient for title of freehold.'[89] Property, even within this elite jurisprudential discourse, was clearly so much more than a bundle of rights, regulated by the state; there was an important sense here that it was also a home, an identity, a locus of interests that exceeded legality.[90] Or to put it

[84] Paul R. Hyams, *Rancor and Reconciliation in Medieval England* (Ithaca, NY: Cornell University Press, 2003), 192. On the unspeakable history of emotions, see John H. Arnold, 'Inside and Outside the Medieval Laity: Some Reflections on the History of Emotions', in *European Religious Cultures: Essays Offered to Christopher Brooke on the Occasion of his Eightieth Birthday*, ed. Miri Rubin (London: Institute of Historical Research, 2008), 107–24.
[85] The quoted phrase is from Caciola, 'Wraiths, Revenants, and Ritual', 23.
[86] See Matthew S. Erie, 'The Afterlife of Property: Affect, Time, Value', in *Legalism: Property and Ownership*, eds. Gregory Kantor, Tom Lambert and Hannah Skoda (Oxford: Oxford University Press, 2017), 89–113.
[87] George E. Woodbine, trans. with revisions and notes by Samuel E. Thorne, *Bracton on the Laws and Customs of England*. 4 vols. (Cambridge, MA: Belknap Press, 1968–77), 2: 48: 'Incorporales etiam res sunt licet in iure non consistant, sicut sunt genera et species, calodæmones et cacodæmones, anima mundi et animæ hominum.'
[88] See Dayan, *Law is a White Dog*, 71–112.
[89] F.M. Nichols, ed. and trans., *Britton*. 2 vols. (Oxford: Clarendon Press, 1865), 1: 222–3: 'Car law seisine de chescun dreit heir est si tendre qe le mettre del pié soulement le chief mies de soen heritage suffit pur title de fraunc tenement.'
[90] See Kevin Gray, 'Property in Thin Air', *Cambridge Law Journal* 50 (1991): 252–307 (295).

another way, property, and particularly the inheritance of property, tended to generate more interests than law could ever possibly hope to determine. Even the Byland story, with its more capacious understanding of the way that inheritance disputes might be resolved, concluded only with 'partial satisfaction' having been made to the 'true heir'.[91] Quite unlike ghosts, which could be shriven and laid to rest, or physically pinned down into their graves, property interests could never be fully settled, but only deferred.

To return to where we began, then – returning, Derrida reminds us, defines the revenant – perhaps there is something else in Marx's insight into 'the passive survival of antiquated modes of production'.[92] The incorporation of inheritance into the English common law was not only the product of a particular set of economic and cultural relations that obtained in Anglo-Norman England, but a generative force of its own, a kinship machine that went on to produce countless thousands of property interests. In our present moment, even mainstream economists have begun to recognise that the rate of capital increases above the rate of growth, leading to an ever growing concentration of inherited wealth, and a tendency towards widening economic inequality embedded into the very fabric of modern capitalism.[93] But as we have seen – as Marx saw before anyone else – this fabric was woven with much older threads. That concentration of wealth, that widening inequality is predicated upon the idea of inheritance. The ghosts of ancestors still peer over our shoulders; unborn children still insist upon their dues. The nightmare continues.

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[91] James, 'Twelve Medieval Ghost-Stories', 422.
[92] Derrida, *Spectres of Marx*, 5.
[93] Famously, see Thomas Piketty, *Capital in the Twenty-First Century* (Cambridge, MA: Harvard University Press, 2014).